

STATEMENT OF EMERGENCY
815 KAR 6:040E

The licensing of home inspectors in Kentucky is a new program enacted into law July 13, 2004. KRS 198B.736 provides that an individual who performs home inspections after July 13 shall not be in violation for not having a license if that person is licensed not later than July 1, 2006. Unless an applicant has been grandfathered in, prior to an individual being licensed, the applicant would have had to complete an approved training course. This emergency regulation sets up the pre-licensing course requirements. An ordinary regulation would not be in effect in sufficient to time to ensure that all active home inspectors will have completed an approved training course and applied and been granted a license before the July 1, 2006 deadline.

This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 9, 2006. The ordinary administrative regulation is identical to this emergency administrative regulation.

Date

Ernie L. Fletcher, Governor

Date

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

Date

Christopher Lilly, Commissioner
Department of Public Protection

Date

Ray Sandbek, Chairman
Kentucky Board of Home Inspectors

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Office of Housing, Buildings and Construction

3 Kentucky Board of Home Inspectors

4 (New Emergency Administrative Regulation)

5 815 KAR 6:040E. Home inspector pre-licensing and continuing education providers.

6 RELATES TO: KRS 198B.712, 198B.722, 198B.724

7 STATUTORY AUTHORITY: 198B.706

8 NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706 requires the
9 Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to
10 enforce the provisions of KRS 198B.700 to KRS 198B.738 and to establish requirements for
11 continuing education. KRS 198B.712 requires an applicant to complete a board-approved
12 training program or course of study. This administrative regulation sets forth the procedures for
13 being approved as a pre-licensing or a continuing education provider.

14 Section 1. Definitions

15 (1) “Board” is defined in KRS 198B.700(1).

16 (2) “Contact hours” means fifty (50) minutes of instruction, exclusive of any breaks,
17 recesses, or other time not spent in instruction.

18 (3) “Continuing education provider” means the person or legal entity who is registered
19 pursuant to this regulation and who is responsible for conducting a continuing education course
20 approved pursuant to this regulation.

(4) “Pre-licensing course provider” means the person or legal entity who is registered pursuant to this regulation and who is responsible for conducting a course approved pursuant to this regulation.

Section 2. Registration requirements

(1) Applicants to be a pre-licensing course provider shall submit the following:

(a) A properly completed “Application for Approval as a Pre-Licensing Course Provider for Home Inspectors”, Form KBHI 3, which is incorporated by reference;

(b) A non-refundable fee of five hundred (500) dollars;

(c) Such information as is necessary to demonstrate that its course meets the requirements of 815 KAR 6:010, Section 2(8); and

(d) A surety bond in a form acceptable to the board and in the amount of fifty thousand (50,000) dollars.

(2) Applicants to be a continuing education course provider shall submit the following:

(a) A properly completed “Application for Approval as a Continuing Education Course Provider for Home Inspectors”, Form KBHI 4, which is incorporated by reference; and

(b) A non-refundable fee of one hundred (100) dollars.

Section 3. Renewals.

(1) Provider registration shall expire every two years.

(2) To renew its registration, each provider shall submit the same application and fee required to be submitted for its initial registration.

Section 4. Required records. (1) Each course provider shall maintain the following records with respect to each course:

(a) The time, date and place each course is completed;

1 (b) The name, address and qualifications of each instructor who teaches any portion of
2 the course and whether each instructor has been approved by the board;

3 (c) The name, address and license number, if applicable, of each person who registered
4 for the course;

5 (d) The original sign-in sheet used at the site of the course to register persons who attend
6 each course. The sign-in sheet shall require every person to print their name, list their license
7 number, if applicable, and sign their name;

8 (e) The course syllabus used for each course; and

9 (f) The course evaluations.

10 (2) The course provider shall issue to each person who successfully completes an
11 approved course a certificate of completion containing the following:

12 (a) The name of the attendee;

13 (b) The license number, if applicable, of the attendee;

14 (c) The name of the course provider;

15 (d) The course name;

16 (e) The course number;

17 (f) The date of the course; and

18 (g) The total number of contact hours successfully completed in each subject covered by
19 the course.

20 (3) Each provider shall maintain its records for at least three (3) years after the
21 completion of each course. These records shall be submitted to the board or its agents upon
22 request.

(4) Each provider shall submit to the board, in writing, notice of any changes in the information provided in the initial registration of the provider. The notification shall be made within thirty (30) days following the date the change is effective.

Section 5. Approval of Continuing Education Courses.

(1) A continuing education provider shall submit a request for approval of a continuing education course which shall include the following:

- (a) The total number of contact hours;
- (b) The course syllabus;
- (c) A detailed outline of the contents of the course;
- (d) The name and qualifications of all instructors known at the time of the request for approval; and
- (e) The minimum qualifications of any instructors not known at the time of the request for approval.

(2) The fee for course approvals shall be twenty-five (25) dollars per class, per date offered. In no event shall a continuing education provider pay in excess of five-hundred (500) dollars in course approval fees in any one year.

(3) The board shall approve continuing education courses which:

- (a) Appropriately relate to the general business skills or the technical skills required of licensees;
- (b) Contain sufficient educational content to improve the quality of licensee performance;
- (c) Are taught by qualified instructors; and
- (d) Have a course evaluation.

(4) Continuing education course approval shall be valid for two years from date of issue if no substantial change is made in the course and if the registration of the provider has not expired or been suspended or revoked. Substantial changes made in any course shall require a new approval of that course. A provider shall reapply for course approval ninety (90) days prior to the date of expiration of the previous course approval.

(5) A course which has been denied may be resubmitted to the board with modifications.

(6) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

Section 6. Qualifications of Course Instructors.

(1) All course instructors shall be qualified, by education or experience, to teach the course, or parts of a course, to which the instructor is assigned.

(2) Any person with a four year college degree or graduate degree is qualified to teach any course in their field of study.

(3) A licensee whose license is suspended or revoked as a result of board discipline shall not teach or serve as a course instructor.

(4) A course provider may request approval by the board regarding the qualifications of a particular instructor for a particular course.

Section 7. Course Syllabus.

(1) Each course shall have a course syllabus that identifies:

(a) The name of the course;

(b) The number of the course assigned by the board;

1 (c) The name and address of the course provider; and

2 (d) A description or outline of the contents of the course.

3 (2) Each person who registers for a course shall be given the course syllabus prior to the
4 beginning of the course. The syllabus may be distributed when the person registers their
5 attendance at the course.

6 Section 8. Course advertising.

7 (1) A course provider shall not advertise a course as one approved until such approval is
8 granted by the board.

9 (2) A course provider shall not include any false or misleading information regarding the
10 contents, instructors or number of contact hours of any course approved under this regulation.

11 (3) A course provider shall include its provider number and course numbers in all
12 advertising.

13 Section 9. Disciplinary matters. (1) The board may deny, suspend, or revoke the
14 registration of any pre-licensing or continuing education provider for any of the following acts or
15 omissions:

16 (a) Obtaining or attempting to obtain registration or approval through fraud, deceit, false
17 statements, or misrepresentation;

18 (b) Failing to provide complete and accurate information in the initial registration or in
19 any notification of change in information;

20 (c) Failing to timely notify the board of a change in the information required for
21 registration of the provider;

22 (d) Falsifying of any records regarding the courses conducted by the provider or the
23 persons who attended the courses offered;

1 (e) Failing to maintain any required records regarding course offerings conducted by the
2 provider or the persons who attended the course;

3 (f) Failing to adequately train the staff responsible for taking attendance at any approved
4 course;

5 (g) Failing to provide the board with copies of any document or other information
6 required to be maintained by the provider pursuant to this regulation;

7 (h) Advertising that a provider has been approved by the board prior to the date the
8 approval is granted;

9 (i) Failing to include provider and course numbers in advertisements;

10 (j) Failing to maintain a record of instructors;

11 (k) Failing to resolve attendance reporting problems; and

12 (l) Failing to comply with any other duty imposed on providers in this administrative
13 regulation.

14 (2) Disciplinary action shall be initiated by the board by written notice to the course
15 provider by certified mail, return receipt requested, to the provider's address on file with the
16 board.

17 (3) A course provider may appeal a proposed disciplinary action by notifying the board in
18 writing within ten (10) days of its desire to appeal.

19 (4) All appeals shall be governed in accordance with KRS Chapter 13B.

20 (5) A provider whose registration has been revoked shall not reapply for registration for
21 two (2) years from the date of revocation.

22 Section 10. Incorporation by Reference

23 (1) The following material is incorporated by reference:

1 (a) “Application for Approval as a Pre-licensure Course Provider for Home Inspectors,
2 Form KBHI 3,” April, 2006, is incorporated by reference; and

3 (b) “Application for Approval as a Continuing Education Course Provider for Home
4 Inspectors, Form KBHI 4,” April, 2006, is incorporated by reference.

5 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
6 law, at the Office of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100,
7 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m.- 4:30 p.m.

Date

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

Date

Christopher Lilly, Commissioner
Department of Public Protection

Date

Ray Sandbek, Chairman
Kentucky Board of Home Inspectors

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation 815 KAR 6:040E

Contact Person: David L. Reichert

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation sets the requirements and procedures for becoming pre-licensing or continuing education course providers.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary because the Board is required to approve training program or course of study prior to applicants becoming licensed and because the Board is required to establish continuing education requirements. This regulation will establish the requirements and procedures for course providers.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: The statutes require the Board to approve training program or course of study prior to applicants becoming licensed and to establish continuing education requirements. This regulation will establish the requirements and procedures for course providers.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will ensure that providers meet certain criteria and provide the requisite courses of study both in terms of pre-licensing and continuing education requirements.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: N/A
 - (b) The necessity of the amendment to this regulation: N/A
 - (c) How the amendment conforms to the content of the authorizing statute: N/A
 - (d) How the amendment will assist in the effective administration of the statutes. N/A
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All prospective course providers will be affected by this regulation. Because this is a new program, the Board cannot say with certainty how many such entities will be affected, though there are perhaps ten to twenty pre-licensing course providers that may seek registration, and there are likely to be a couple of dozen continuing education providers. As the program gets initiated, there could be additional providers interested as well.

- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative, if new, or by the change if it is an amendment: Each prospective provider will be impacted by having to register and meet certain course requirements to ensure adequate instruction to home inspectors.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: The cost of implementation will be several thousand dollars in terms of time and expenses of the board members and staff in initiating the program.
 - (b) On a continuing basis: The continuing expenses should be less on a continuing basis depending on the number of providers and courses offered. It cannot be stated with any certainty at this point because the program is new.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding used for the implementation will be derived from licensing fees, pre-licensing and continuing education course provider fees.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This entire licensing program is new, so fees and funding will increase because none currently exist. This administrative regulation specifically provides for the registration fees.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does establish registration fees for this new program.
- (9) TIERING: Is tiering applied? (Explain why tiering was or was not used.) Tiering was not used. All providers will be affected in the same manner in that they must comply with certain requirements designed to ensure adequate instruction, maintenance of records and so on. This should not vary depending on the size or proximity or other factor of the provider. However, because in the continuing education context, the fees are largely based on the number of programs sponsored, larger providers will end up paying more than less frequent providers up to a maximum cost.

SUMMARY OF REFERENCE MATERIAL

815 KAR 6:040E

Home Inspector Pre-Licensing and Continuing Education Providers

FILED: May 9, 2006

(1) The Application for Approval as a Pre-Licensing Course Provider for Home Inspectors, Form KBHI 3 and the Application for Approval as a Continuing Education Course Provider for Home Inspectors, Form KBHI 4, are incorporated by reference. These applications provide the manner in which those who desire to provide a pre-licensing course or continuing education to home inspectors become registered with the Board.

(2) KRS 198B.712(2)(c) requires the Kentucky Board of Home Inspectors to approve a training program or course of study before an applicant can be licensed. Moreover, KRS 198B.722(6) requires licensees to complete continuing education as required by the Board. KRS 198B.706(1) requires the Board to prescribe forms and applications required by KRS 198B.700 to KRS 198B.738. This regulation sets forth the requirements to be a pre-licensing course provider or continuing education provider in order to implement the foregoing statutory requirements and prescribes the requisite applications.

(3) The total number of pages of material incorporated by reference is eight (8).